

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



JUL 12 2005

The Honorable Richard J. Codey
Governor of New Jersey
125 West State Street
Post Office Box 001
Trenton, New Jersey 08625

Dear Governor Codey:

It is with pleasure that I respond to the State of New Jersey's request for waivers of statutory and regulatory requirements under the Workforce Investment Act (WIA). This action is taken under the Secretary's authority to waive certain requirements of WIA Title I, subtitles B and E and Sections 8-10 of the Wagner-Peyser Act. In the Strategic State Plan for Title I of the Workforce Investment Act and the Wagner-Peyser Act for the two-year period, July 1, 2005, through June 30, 2007, the state submitted eight waiver requests. The following is the disposition of the state's waiver submission (copy enclosed).

Requested Waiver 1: Waiver to increase transfer authority of Local Workforce Investment Boards from the current 20 percent to 30 percent for Adult and Dislocated Worker funds.

The 2005 appropriation enacted by Congress raised the statutory transfer limit to 30 percent for appropriated 2005 funds, applicable for the life of the funds. We confirmed with Mr. Gary Altman, Director of One-Stop Coordination and Support Division for Workforce New Jersey, on June 22, 2005, that the state was not seeking additional flexibility. Mr. Altman indicated that, since there appears to be no guarantee that the 30 percent limit will be extended in Program Year 2006, we should consider the state's request to be active. This waiver request for funds transferability is consistent with one of the improvements that the Administration is seeking in the reauthorization of the Workforce Investment Act—the consolidation of the WIA Adult, WIA Dislocated Worker and Wagner-Peyser Act (Employment Service) funding streams. This request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e).

Accordingly, the State of New Jersey is granted a waiver of the funds transfer limitation at WIA Section 133(b)(4), through June 30, 2007. The waiver allows the state to approve local area requests to transfer up to 30 percent of local area allocations between the WIA Adult and Dislocated Worker programs.

Requested Waiver 2: Waiver to use Individual Training Accounts (ITAs) for youth participants.

The state indicates that the waiver would offer flexibility in using youth funds to provide training services to youth while retaining limited adult funds to be used on adult training services. The request further states that the waiver will allow local areas to enhance delivery of occupational skills training and increase customer choice for youth. This request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e). Accordingly, the state is granted a waiver of the prohibition on the use of ITAs for older and out-of-school youth at 20 CFR 664.510, through June 30, 2007. The state should ensure that funds used for ITAs are tracked and reflected in the individual service strategies for these youth.

Requested Waiver 3: Extension of the waiver of the time limit on the period of initial eligibility at 20 CFR 663.530.

The state indicates that an extension of this waiver is requested to address the continuing difficulties in the collection of "all student" information from training providers. Without an extension, the state indicates that many training providers are likely to opt out of the Eligible Training Provider system, thus limiting customer choice. This request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e). Accordingly, the State of New Jersey is granted an extension of the waiver through June 30, 2007.

Requested Waiver 4: Waiver to permit the use of up to 10 percent of formula funds allocated to local areas under WIA Section 133(b) for incumbent worker training at the local level.

This request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e). The State of New Jersey is granted a waiver of the language that limits the authority to provide the activities identified in WIA Section 134 to the state, through June 30, 2007. This waiver will permit local areas to request to use up to 10 percent of local area formula allocation funds for adults and dislocated workers to provide incumbent worker training. These funds must be tracked by funding stream.

Requested Waiver 5: Waiver of the required 50 percent employer match for customized training at WIA Section 101(8)(C) to permit a match based on a sliding scale.

The state indicates that a waiver permitting a sliding scale will improve services to customers seeking training and will improve the capacity of local boards to market demand-driven services and build beneficial relations with the private sector. This request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e). Accordingly, the state is granted the waiver as requested.

Requested Waiver 6: Waiver to exempt employed workers earning below self-sufficiency from the core indicator of performance.

This request does not meet the higher standard for waiving the key WIA reform principle of increased accountability at 20 CFR 661.410(c). Accordingly, we cannot approve this request. There is a mechanism in place to address the state's concerns without the need for a waiver. Provisions for negotiation and renegotiation of performance levels allow states to consider such factors as the characteristics of participants. We also note that ETA is currently reviewing the earnings measure and will consider the state's concerns as part of this review.

Requested Waiver 7: Waiver to shift the priority of service to focus on individuals with extreme barriers to employment.

Subsequent to receipt of the State Plan, we discussed this request with the state workforce agency staff, who indicated that the state is seeking relief from the burden and cost of documenting a participant's status as low-income or a public assistance recipient, and is not seeking relief from local area service to the specified populations when funds are limited. In light of this clarification, we have interpreted this as a request to waive data validation policies, which are an important part of our efforts to increase accountability. The state's request does not meet the higher standard for waiving the key WIA reform principle of increased accountability at 20 CFR 661.410(c). Accordingly, we cannot approve this request. We support the state's efforts to operate more efficiently. Our Regional Office is available to provide assistance with this matter.

Requested Waiver 8: Waiver to exclude individuals earning greater than \$50,000 in either the second or third quarter prior to WIA registration from the earnings gain performance measurement.

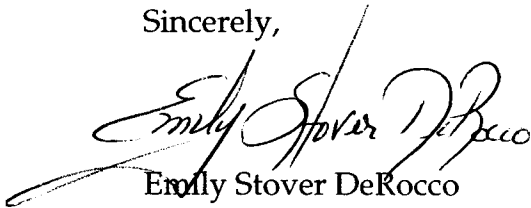
The state's second performance-related request does not meet the higher standard for waiving the key WIA reform principle of increased accountability at 20 CFR 661.410(c). Accordingly, we cannot approve this request. As noted above, there is a mechanism in place to address the state's concerns without the need for a waiver. Provisions for

negotiation and renegotiation of performance levels allow states to consider such factors as the characteristics of participants. We also note that ETA is currently reviewing the earnings measure and will consider the state's concerns as part of this review.

As provided for under paragraph 3 of the executed Agreement, the approved waivers are incorporated by reference into the state's WIA Grant Agreement. A copy of this letter should be filed with the state's WIA Grant Agreement and the state's Strategic Plan, as appropriate.

We look forward to continuing our partnership with you and achieving better workforce investment outcomes. We are prepared to entertain other state and local level waiver requests that you may wish to submit, consistent with the provisions of the WIA statute and regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily Stover DeRocco", is written over a printed name.

Emily Stover DeRocco

Enclosure